

DETAILED ACTION

Note: This is in response the amendment filed 10/23/2009.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-24 are rejected under 35 U.S.C. 102(e) as being anticipated by
Levaughn et al. (US 7150755).

The applied reference has a common assignee with the instant application.
Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

Levaughn et al discloses the claimed invention including a carrier base (142) defining a plurality of guide channels (at 152); a cover mounted on the carrier base to define a housing enclosing the plurality of guide channels and defining a plurality of openings, each opening aligned with an end of one of the guide channels (152); a plurality of lancets (8,144,172), each lancet having a body with a sharp tip (114)

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extending therefrom and an endcap (147,174) removably positioned over the sharp tip, each lancet (8,144,172) associated with one of the guide channels (152) and traversing a path between a retracted position fully within the housing and an extended position wherein at least the sharp tip projects through one of the openings. Note that in figures 4 and 15-17D, shown a plurality of drive springs (74 or (148 includes spring arm 150)), each spring (74 or (148 includes spring arm 150)) interfacing at a first end with the housing and interfacing at a second end with one of the lancets (8,114,172); a plurality of lancet retainers (318), and each lancet retainer (318) associated with one of the openings in the housing, and movable between a first position covering that opening and a second position uncovering that opening.

Response to Arguments

3. Applicant's arguments filed 10/23/2009 have been fully considered but they are not persuasive. Applicant argues with respect to claims 1 and 21 that LeVaughn only discloses a single drive spring rather than have a plurality of drive springs as recited by applicant. Examiner respectfully disagrees with applicant's argument. As stated above, broadly reasonable interpretation, LeVaughn appears having a plurality of springs (74), wherein each of the plurality of springs associates with each lancet (8). In addition, wherein the LeVaughn reference suggests having each lancet retainer independently associated with each lancet as recited in the claims.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Snow (US 7318436) discloses lancet device having more than one spring.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin T. Truong whose telephone number is 571-272-4705. The examiner can normally be reached on Monday-Friday from 8:00 AM to 4:30 PM..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on 571-272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kevin T. Truong/
Primary Examiner, Art Unit 3734

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